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MARKUP OF H.J. RES. 71 AND H.J. RES. 72

TUESDAY, NOVEMBER 3, 2015

House of Representatives,
Subcommittee on Energy and Power,
Committee on Energy and Commerce,
Washington, D.C.

The subcommittee met, pursuant to call, at 2:02 p.m., in Room 2322, Rayburn House Office Building, Hon. Ed Whitfield [chairman of the subcommittee] presiding.

Present: Representatives Whitfield, Olson, Barton, Shimkus, Pitts, Latta, Harper, McKinley, Pompeo, Kinzinger, Griffith, Johnson, Long, Ellmers, Flores, Mullin, Hudson, Upton (ex officio), Rush, McNerney, Tonko, Engel, Green, Capps, Doyle, Castor, Sarbanes, Welch, Loeb sack, and Pallone (ex officio).

Staff Present: Nick Abraham, Legislative Associate, E&P; Will Batson, Legislative Clerk, E&P, E&E; Allison Busbee, Policy

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Coordinator, Energy & Power; Karen Christian, General Counsel; Patrick Currier, Sr. Counsel, Energy & Power; Tom Hassenboehler, Chief Counsel, Energy & Power; Peter Kielty, Deputy General Counsel; Mary Neumayr, Senior Energy Counsel; Tim Pataki, Professional Staff Member; Dan Schneider, Press Secretary; Peter Spencer, Professional Staff Member, Oversight; Dylan Vorbach, Legislative Clerk, CMT; Greg Watson, Legislative Clerk, C&T, O&I; Jessica Wilkerson, Oversight Associate, O&I; Jen Berenholz, Minority Chief Clerk; Jeff Carroll, Minority Staff Director; Elizabeth Ertel, Minority Deputy Clerk; Caitlin Haberman, Minority Professional Staff Member; Rick Kessler, Minority Senior Advisor and Staff Director, Energy and Environment; Josh Lewis, Minority EPA Detailee; John Marshall, Minority Policy Coordinator; and Alexander Ratner, Minority Policy Analyst.

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Mr. Whitfield. I would like the subcommittee to come to order, and the chair would recognize himself 5 minutes for an opening statement.

Today the subcommittee will begin the markup of two resolutions of disapproval under the Congressional Review Act. These resolutions address the EPA's recently published final rules to regulate carbon dioxide emissions from new and existing electric generating units;

The Congressional Review Act is an oversight tool that provides the legislative branch with the power to overturn a major regulation issued by a Federal agency. It is not utilized frequently, but we think the circumstances warrant it today. The act can be invoked to prevent a rule that exceeds an agency's statutory authority or to prevent a rule that is likely to be unworkable or that would do more harm than good. In the case of EPA's carbon dioxide regulations, the two resolutions of disapproval would prevent all of these things.

Over the past 24 months, in hearings and letters from this committee, we have developed an extensive record documenting the unprecedented reach and strong potential for harmful, costly impacts of EPA's regulations. Based on this oversight, these resolutions are necessary for protecting ratepayers, the reliability of our electricity supplies, and our Nation's global competitiveness.

In the regulations at issue today EPA seeks to go far beyond its statutory authority and transform how electricity is generated, transmitted, and consumed in America. There is nothing in the Clean

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Air Act provisions used to justify the rules that suggest such sweeping agency actions are authorized. Indeed, the sheer sweep of these rules is unprecedented in the 45-year history of this statute.

Put plainly, if Congress wanted to authorize a comprehensive transformation of the way Americans produce, deliver, and use its electricity in order to address global warming, it would have done so. If Congress wanted to see a wholesale Federal takeover of State authority on electricity policy, it would have done so. And if Congress wanted to write fossil fuels largely out of America's energy future, it would have said so.

These rules will produce not only higher electric rates, but also pose serious threats to electricity reliability and result in substantial loss of jobs and the potential for future employment growth, national harms we may begin to see soon as States and industry grapple with the prospects of these rules. And all this sacrifice would achieve a hypothetical reduction in future temperatures too small to even measure.

These rules moreover go well beyond traditional source performance standards authorized in the statute and seek to force States and utilities to make potentially irreversible decisions and investments now. In the guise of the EPA's new and expanded definition of what standards it can require, the Agency has created a compliance schedule and complicated incentive scheme that locks States into making expensive and far-reaching choices concerning their electricity

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systems as soon as possible before the long-term implications of these decisions can be evaluated or the long-term implications of EPA's regulatory overreach can be understood.

We are disappointed that EPA and this administration have shown no interest in even having a discussion about delaying these extreme rules. Most legal authorities around the country say that this action far exceeds the legal authority set out in the Clean Air Act. So Congress has no option available except to utilize the Congressional Review Act on top of the multitude of lawsuits that have been filed. We would not be doing this today except for the administration showing consistently that it is unwilling to work with us on this important issue.

And with that, my time is expired, and I would like to recognize the gentleman from Illinois, Mr. Rush, for his 5-minute opening statement.

Mr. Rush. Thank you, Mr. Chairman.

Mr. Chairman, precisely 1 week ago the American Academy of Pediatrics released a policy statement stating that climate change was having a disproportionately negative impact on the health of our children, your children, my children. In the policy statement released on October 26, 2015, the AAP notes that there is broad consensus among scientific organizations and climatologists that the ubiquitous effects known commonly as climate change are the very result of contemporary human activities.

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The report goes on to say that, according to the World Health Organization, more than 88 percent of the existing burden of disease attributable to climate change occurs in children younger than 5 years old. The AAP states that infants less than 1 year of age are uniquely vulnerable to heat-related mortality, with one study projecting an increase in infant heat-related deaths by 5.5 percent in females and 7.8 percent in males by the end of the 21st century.

Additionally, the study says that the high rates of post-traumatic stress disorder symptoms have been found in children following climate-related disasters, including hurricanes and floods.

Mr. Chairman, scientists, climatologists, doctors, and experts have been warning us for years now that we are nearing a tipping point in regards to being able to put in place measures to mitigate the worst impacts of climate change. Now, Mr. Chairman, we have the Nation's leading pediatricians warning us that the most vulnerable and precious among us, our own children, are disproportionately at risk due to manmade climate change, and these very same doctors urge us to act immediately in order to address those extraordinary risks.

Mr. Chairman, let me ask you a question. What other warning, what other alarm, what other notices can the majority side possibly be waiting for before they decide this is an issue that deserves our fullest attention? We are here today marking up two Congressional Review Act resolutions which would eliminate both the clean power plant, as well overturn the Environmental Protection Agency's

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emissions limits for new fossil fuel-fired power plants at a time when doctors are warning us to do much, much more to protect our children from climate change. Yet we are here trying to undo the work of the very agency that is most responsible for protecting our air, our water, from harmful pollutants.

Mr. Chairman, what can we do? Shall we beg, plead? What can we do to get you to hold a hearing as soon as possible so that these doctors who are responsible for the AAP policy statement can come before this subcommittee? What must we do? What can we do? How can we influence? How can we get you to move on having a hearing?

Please, Mr. Chairman, I urge you and all my colleagues to heed the warnings from the Nation's top pediatricians who inform us that climate change poses the most serious threat to human health and safety. And I quote from these top pediatricians. They say, "Failure to take prompt, substantive actions would be an injustice to all of our Nation's children."

Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. Whitfield. The gentleman yields back.

The chair will now recognize the chairman of the full committee, Mr. Upton, for a 5-minute opening statement.

The Chairman. Thank you, Mr. Chairman.

In Michigan and across the country winter is fast approaching. Snow is here. And for many folks, the first line of defense against freezing temperatures is affordable and reliable electricity to heat

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our homes.

But affordable and reliable energy in our country is under assault. EPA's final rules seeking to regulate carbon dioxide emissions from new and existing power plants threaten to change fundamentally the way that we generate, distribute, and consume electricity throughout the country. We are here today because this administration is seeking to regulate where it, in fact, failed to legislate.

The resolutions before us today represent an important part of this committee's longstanding and ongoing efforts to protect jobs and affordable energy from the administration's expansive regulatory agenda. This subcommittee has held a number of hearings examining EPA's final rules, and just last month we examined the legal merits of these rules, which take the Clean Air Act in a direction that it was never intended to go.

For existing power plants, these rules effectively would impose cap-and-trade requirements on States -- yes, we remember cap-and-trade -- and would increase electricity prices for consumers across the country. The Democratically controlled Congress wisely rejected cap-and-trade back in 2010, and those rules are just as ill-advised today as they were 5 years ago.

These resolutions present Congress with an opportunity to disapprove of each rule and provide that each rule shall have no force and effect. These resolutions are ultimately about protecting

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hardworking people from higher electricity prices, threats to grid reliability, and EPA's economywide energy tax.

I commend this chairman, Mr. Whitfield, for his steadfast work in standing up to the administration's unprecedented assault on American energy, and I would urge my colleagues to support the resolution, and yield back my time.

Mr. Whitfield. The gentleman yields back.

At this time the chair recognizes the gentleman from New Jersey, the ranking member, Mr. Pallone, for 5 minutes.

Mr. Pallone. Thank you, Mr. Chairman.

It is very disappointing that we are here once again to mark up legislation to gut EPA's ability to regulate carbon emissions from new and existing power plants. We have already wasted enough of the committee's time attacking every step taken by this administration to address our dangerously changing climate.

As we sit here today, climate change continues to reshape our world. According to NOAA, 2014 was the warmest year ever recorded, and that trend shows no sign of slowing down. And that is why EPA has taken action by finalizing a workable plan to reduce emissions of carbon pollution from power plants, which are the largest uncontrolled source of manmade greenhouse gasses in the United States.

The Clean Power Plan outlines a path to cleaner air, better health, a safer climate, and a stronger economy. The rule also gives States flexibility to choose how to achieve their emission-reduction

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goals, which are State-specific and cost-effective. This is a moderate and reasonable approach and falls well within the legal authority and responsibility of the EPA to address carbon pollution from power plants.

Mr. Chairman, we have spent enough time listening to the countless absurd arguments made on behalf of companies that profit from the status quo, and we have spent enough time watching multiple Federal courts reject the premature attacks on the Clean Power Plan and EPA's carbon standards for new power plants. Enough is enough. It is time for Congress and this committee to move on.

But instead of moving on, we are considering bills today that would cripple the efforts of the EPA to move forward in the fight against climate change, and what is worse, they bar the EPA from reissuing this rule or issuing any other future rules to address carbon pollution from power plants. So it is not enough to dismantle the current plan to address carbon emissions, Republicans are doing their best to make sure future generations are hamstrung by the same head-in-the-sand logic on display today.

Mr. Chairman, Congress overwhelmingly passed the Clean Air Act, the Republican President signed it into law, and now EPA is fulfilling the executive duty to take care that the laws be faithfully executed. EPA is doing the job we asked them to do, and it is unfortunate that Republicans are using every trick in the book to prevent the Agency from carrying out its mission.

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EPA's power plant rules are modest and flexible and will help us tackle the urgent need to reduce our carbon emissions, but our Republican colleagues will continue to ignore the facts, and Republicans will continue their zealous campaign to discredit and reject any reasonable plan to address climate change.

In my opinion, just saying no to climate action, as these bills would have us do, and condemning future generations is simply not an option, and I urge members to vote no. And I yield back my time.

Mr. Whitfield. The gentleman yields back the balance of his time.

At this time the chair recognizes the vice chairman of the subcommittee, Mr. Olson, for 3 minutes.

Mr. Olson. I thank the chairman.

This markup is not about the science of climate change. This markup is about the law. There is no doubt in my mind that EPA's carbon rules violate the spirit and the words of the Clean Air Act. EPA has doubled up. They put rules on the same plants twice under Section 111 and Section 112, even though the law says they can't. EPA is reaching well beyond the fence line, even though they shouldn't. They are taking control of our entire economy using just a few lines of law as a justification.

When Congress wants to give an agency sweeping power, we spell it out. Compare Section 111 of the Clean Air Act with what EPA is doing and see if it passes the smell test.

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As I mentioned at our last hearing, nonpartisan experts back home who take care of our grid in Texas, ERCOT, say this rule is a mess, a manmade disaster. They say it will threaten our grid and spike consumer prices.

And this rule does this for some questionable benefits. Co-benefits are well and good, but we already have rules for traditional pollution. And as to carbon, EPA is strangling our economy for a tiny reduction in global CO2.

Global warming is global. Whatever your thoughts on global warming, EPA knows that this rule wouldn't move the global needle for CO2. But it sure as heck hits America hard. They are violating the law and hurting our economy for slim benefits.

EPA is renegade. In Texas, if we have a renegade bull, we grab a lasso and bring that bull down. The CRA is our lasso. Let's pass it and get control of the renegade EPA.

I yield back.

Mr. Whitfield. The gentleman yields back.

The chair recognizes Mr. McNerney for 3 minutes.

Mr. McNerney. Thank you, Mr. Chairman.

The President and the Congress have a fundamental responsibility to protect the safety, welfare, and security of the people of this country. Climate change is clearly a threat to our safety, security, and welfare. Because the Congress is incapable of moving forward with any measure to curb climate change, the President is using his authority

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under the Clean Air Act, which has been upheld by the Supreme Court. The Congress should applaud the President's plan and not fight it.

The EPA has held extensive hearings and taken into account States' concerns to make the Clean Power Plan generate a smooth transition to cleaner power. Let's let this go forward. I urge my colleagues to reject these two joint resolutions, and yield to my colleague from New York.

Mr. Tonko. I thank the gentleman for yielding.

It is unfortunate that we are considering two resolutions today that are designed to prevent the EPA from moving forward with regulations to reduce carbon emissions from existing and new power plants. Instead of working together to find ways to ease the transition for States and communities that are already challenged by the many changes that are happening in the electric utility sector, we are spending time trying to turn back the clock. It can't be done.

EPA is a convenient scapegoat here, but the transition that is occurring is driven by much more than EPA regulations. Natural gas, its abundance and low price, is outcompeting coal within the utility sector. Power plants are aging. And even more important, the economy has changed. Many of the older plants are located in areas that once had far more demand for electricity, demand from large manufacturing plants and heavy industry. Those factories have closed or modernized, most resulting in far less electricity used. Coal production has moved from eastern States to western States. It is simply easier and cheaper

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to extract coal from these areas.

And there are new technologies. Wind and solar generation is growing and these renewable energy sources have strong, broad-based public support. Other technologies that enable the electric grid to be smarter, more flexible, and more resilient are being deployed now, and more are in development. Recent experiences with severe storms have inspired businesses and individuals to look for and install backup systems that will enable them to be off grid for at least some period of time. And State policies to encourage energy efficiency and to diversify energy sources are also driving this transition.

Was transition from wired to wireless communication a war on copper? Was the transition to the automobile a war on horses? No, of course not. These transitions offered tremendous benefits and new job opportunities, but they also destroyed jobs and displaced individuals, families, communities, and businesses.

Chairman Whitfield, you and Representative McKinley and a number of our other colleagues continue to speak, and rightfully so, passionately for the workers, families, and communities that are being hurt and who will continue to be hurt by the loss of jobs in coal mining and in the utility sector as older plants close down. I agree that these people who have dedicated their lives to providing us with reliable power deserve a lot more than a pink slip, but we do these people no favors by promising job security that the economy will no longer deliver. They need real alternatives, not just job training

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and short-term assistance, but good-paying job opportunities that will allow them to provide for their families.

Historically we have assumed that with some job training and short-term assistance, that new jobs would replace old ones. I don't think this assumption is still true, not for this industry or for many others in manufacturing and other sectors. This is a problem we are doing far too little to address, and stopping these regulations will not solve this problem.

The EPA's regulations are playing some role in driving the change we see, that is true, but the Agency is doing what Congress directed it to do on behalf of our people to act in defense of public health and the environment. The Agency is responding to the overwhelming evidence that our heavy reliance and usage of fossil fuels has altered the Earth's atmosphere and the trajectory of its climate. Will these rules and the United States' action alone solve this problem? No, but as the world leader and the most technologically advanced Nation in the world, we should demonstrate that this problem can be solved.

These rules will deliver substantial benefits to our society, and they will move us in the right direction. Change in the climate already is underway. We need to show the momentum of this change to give ourselves and all other nations an opportunity to adapt to the changes that are coming.

And with that, I would just strongly urge the Clean Power Plan continue to guide us forward as we move from the Dark Ages. With that,

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I yield back.

Mr. Whitfield. The chair now recognizes the gentleman from Ohio, Mr. Latta, for 3 minutes.

Mr. Latta. I thank the chairman for holding today's markup to stop the advancement of the President's Clean Power Plan. I have multiple concerns about the EPA's recently finalized rules regarding the regulation of greenhouse gases at both new and existing power plants. These resolutions of disapproval, which I am a cosponsor of, are important for us to advance so that these rules have no force and effect.

Many States, including my State of Ohio, believe that there are legal challenges to the Clean Power Plan and have joined together in the lawsuits. While these challenges begin, it is vital that Congress also act to stop these rules from going into effect.

When it comes to the numbers set for Ohio, the final rules are stricter than they were in the draft form, which only intensifies the concerns I have had about our grid reliability. If plants are shut down in order to comply with the final rule, but new infrastructure, including generation, transmission, and distribution, is not up and running, reliability issues will affect the entire country.

Affordable and reliable power is vital to Ohio's economic development and security. For years jobs have come to Ohio because of the abundance of low electric rates, which is especially important for much of the energy-intensive manufacturing found in my district.

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The Clean Power Plan is a misguided proposal by the EPA in an attempt to get cap-and-trade policy implemented by going around Congress. I look forward to advancing these resolutions to protect Ohioans and the country. And, Mr. Chairman, I yield back.

Mr. Whitfield. The gentleman yields back.

The chair recognizes the gentlelady from Florida, Ms. Capps, for 3 minutes.

Mrs. Capps. Thank you very much, Mr. Chairman, for yielding the time.

And, colleagues, I would like to urge you to defeat both joint resolutions here today. The cost and the impacts of the changing climate demand the attention of the U.S. Congress. In fact, it demands very bold action. And, unfortunately, the Republican majority is doing the opposite, ignoring the problem. And in doing so, what is going to happen is you are going to heap cost, enormous cost on the people we represent back home. And let's go through a few of those.

In Florida we are already seeing the impacts of the changing climate. We are not unique. Look at the extreme weather events all across the country. That is going to prove to be very costly, and it is going to grow over time. So that is going to require folks back home to pay higher property insurance rates to cover extreme weather events. It is going to require the United States Congress to address emergency aid like we had to do with Superstorm Sandy and tornados, and that is just going to escalate.

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What I see in local governments in Florida is they are having to ask the taxpayers to pay more in property taxes and storm water fees so they can retrofit drainage systems, storm water, water and wastewater systems.

We are a tourism State. We get money when folks like you during winter come and enjoy our beaches. What we are going to see over time is greater cost for beach renourishment, not to mention the electric bills that will go up as the summers get hotter and hotter.

We heard testimony in this committee, and everyone should understand the extensive scientific studies that have been done, that reduction in carbon pollution will have great benefits, health benefits, environmental benefits, and economic benefits. And I am grateful that President Obama has been proactive. Our country has been the world leader, as we would expect it to be, and EPA has been particularly flexible with States and communities in developing the Clean Power Plan.

So I would like to urge you to defeat these joint resolutions today. Instead let's focus on unleashing American ingenuity. Let's spur innovation. Let's figure out how to encourage and incentivize energy savings so we can save our constituents money on their electric bills. Let's figure out how to broaden the reliability of the grid through renewables, solar, wind, and the new forms of energy.

We can do this. This is the United States of America. We can take on these great challenges. But, unfortunately, if you pass these

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resolutions here today you are saying, no, we are not up to that task.

I think that would be unfortunate. I yield back my time.

Mr. Whitfield. The chair now recognizes the gentleman from Texas, Mr. Flores, for 3 minutes.

Mr. Flores. Thank you, Mr. Chairman, for holding today's markup.

Mr. Chairman, as I visit with students in Texas to farmers in Ohio, I ask each of them what is the most important issue facing America today, whether it is Daesh or national security or China or cybersecurity. The one item that always comes in dead last when I ask these audiences is climate change. Clearly there is a huge disconnect between our friends on the other side of the aisle and the President and the rest of America on this particular issue.

After the Democratic House passed cap-and-trade in the summer of 2009, I was gravely concerned that these policy proposals coming out of Washington were positioning our country to be a huge exporter of American jobs to other countries, and so I ran for Congress because of that, to protect America's future and because Washington desperately needs real world solutions from job creators, not from bureaucrats.

A national tax on energy, policy changes of this magnitude should be debated and enacted by Congress. Yes, cap-and-trade was debated by Congress, but it failed to pass in the Democratically controlled Senate. This rule tries to come up with a back-door way by the EPA of doubling down on cap-and-trade through executive overreach.

And what is most important, when you listen to the other side of

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the aisle, they would say that this rule will totally change everything when it comes to climate change. But this expensive rule will not even have a measurable impact on actual climate, because this rule, according to the EPA, will not even lower global temperatures by -- actually it will lower global temperatures by less than 0.02 of a percent of a degree Celsius. However, its cost to the economy runs into the tens of billions of dollars, including job losses and also higher energy costs for America's poorest families.

The EPA plan does not work and we must stop it. And I applaud your efforts, Mr. Chairman, to pass these two Congressional Review Act pieces of legislation that deal with this, and I support this committee's efforts to address this executive overreach, and I look forward to supporting these resolutions under consideration today. Thank you. I yield back.

Mr. Whitfield. The gentleman yields back.

And at this time I recognize the gentleman from New York, Mr. Engel, for 3 minutes.

Mr. Engel. Thank you very much, Mr. Chairman.

You know, if people polled the average person thousands of years ago, they might all think the Earth is flat, but it isn't. And people today can deny climate change, but the fact is it is happening. And I would say that my constituents talk to me all the time about climate change. They are very, very concerned about it. And I think we make a big mistake if we put our heads in the sand and pretend it isn't there.

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We cannot continue to deny the existence of climate change. The two disapproval resolutions before us today seek to use the Congressional Review Act to strike the Clean Power Plan from the books. That is a mistake. I understand the need to try to preserve jobs, and we really need to do that, and we should do that. But we shouldn't do it by denying climate change. It is real, it is getting worse, and we have a responsibility to respond.

The United States accounts for roughly 16 percent of the world's annual greenhouse gas emissions. The global price of inaction is dire. Citibank recently found that investing in low-carbon energy to address climate change would save the world \$1.8 trillion through 2040, but not acting will cost an additional whether \$44 trillion by 2060.

Leaders from our most prosperous industries -- and these are industry leaders, these aren't bleeding heart left-wingers -- they have been calling on the United States and other countries to support strong action on climate change and specifically to embrace ambitious emission reductions at the international negotiations in December. Specifically, 81 of the largest companies from across the American economy recently signed a pledge recognizing that, and I quote, "Delaying action on climate change will be costly in economic and human terms," unquote, and supporting, and here again I quote, "a climate change agreement that takes a strong step forward toward a low-carbon sustainable future," unquote.

Again, these are the largest companies in America. This is what

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they are saying. This pledge comes on the heels of open letters from the CEOs of some of America's largest food and beverage companies and some of America's most important banks and financial services companies.

Also, encouraging leaders from the United States and around the world to reach a meaningful global emission-reduction agreement. The United States has pledged to reduce its emissions by 26 to 28 percent below 2005 levels by 2025. The Clean Power Plan is an important step to help us meet these targets.

So I urge my colleagues to stand with American businesses, to accept the work of our scientists, and to oppose the disapproval resolutions before us today.

Thank you, Mr. Chairman. I yield back.

Mr. Whitfield. The gentleman yields back.

The chair at this time recognizes the gentleman from Oklahoma, Mr. Mullin, for 3 minutes.

Mr. Mullin. Thank you, Mr. Chairman.

The future of our country depends on an all-the-above approach to energy production, an approach that does not eliminate traditional energy sources, but rather uses the Nation's resources effectively while also protecting the air we breathe, the water we drink, and the land on which we raise our families. The two rules in question threaten our ability to implement the all-the-above approach to energy that is critical for the affordable prices, a strong economy, and energy

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independence.

Ozone levels have dropped by one-third since 1980, but yet the EPA continues to push regulations that threaten the jobs and the economy and the growth that this country has and puts the reliability of our electric grid at risk.

While this administration continues to say no to American energy, we need to say yes. That is why I applaud Chairman Whitfield for introducing these resolutions, and I give him my full support.

Chairman, I will yield back.

Mr. Whitfield. The gentleman yields back.

The chair now recognizes the gentleman from Pennsylvania, Mr. Doyle, for 3 minutes.

Mr. Doyle. Thank you, Mr. Chairman.

The Clean Power Plan released by the administration in August of this year clearly isn't a perfect set of rules, and there are certainly winners and losers. For States that disproportionately rely on nuclear power, the rule presents some obvious challenges. States were not awarded credit for this source of zero-carbon power in calculating their carbon reductions, and relicensed plants will not count towards States achieving their goals in the future.

This presents a real issue for States like Pennsylvania. We need to work to ensure these sources of zero-carbon emissions can remain online and provide reliable power for homes and businesses across the country.

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I am also concerned by the leakage mitigation policies in the final rule, both from existing to new sources and from State to State. Power doesn't stop at State borders, and we are lucky to have a wide range of power sources in my State, but that doesn't mean that neighboring States should be able to drop their emissions by using power generated elsewhere.

However, ultimately I think the Clean Power Plan represents a critical step forward in the fight against climate change. We need to continue to pursue an all-of-the-above energy strategy, and the Clean Power Plan affords States flexibility in making these important reductions in emissions while ensuring power remains reliable across the country.

There are several features of the plan that ensure power remains reliable. States can also, if they choose to, submit multistate plans under new mass-based programs. And, frankly, the Clean Power Plan allows States to develop and implement new policies that make sure we are making responsible decisions about how we use power and where it comes from.

I am confident that my home State's new Governor and his team, who are already hard at work, will deliver a State implementation plan that will meet these important goals while ensuring reliable and affordable power, and I look forward to working with them to do so.

This Clean Power Plan isn't perfect, but I remain committed to making it work to ensure we take real, concrete steps against climate

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change, and therefore I oppose these two resolutions. And I yield back.

Mr. Whitfield. The chair at this time recognizes the gentleman from North Carolina, Mr. Hudson, for 3 minutes.

Mr. Hudson. Thank you, Mr. Chairman, and thank you for holding this markup and continuing this committee's important oversight on such disastrous regulations.

This proposed 111(d) rule is especially damaging for North Carolina. We have already converted several of our coal plants to natural gas, and we have improved the heat efficiency of our natural gas plants. We have been proactive in reducing our carbon dioxide emissions. Since 2005, we have reduced CO2 emissions from electric utilities by 20 percent.

But this rule doesn't take any of that into account. Our State has shown that we can keep the air clean while protecting jobs and ensuring energy is affordable, and we have acted responsibly. President Obama significantly misses the mark with this double-down war on American energy that will raise energy prices, cost jobs, without having any measurable impact on carbon emissions.

I look forward to supporting your two resolutions today and will continue to fight to protect North Carolina jobs and our economy. Mr. Chairman, I yield back.

Mr. Whitfield. The chair at this time recognizes the gentleman from Texas, Mr. Green, for 3 minutes.

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Mr. Green. Thank you, Mr. Chairman and Ranking Member, for holding the markup.

Today we hear debate on the use of the Congressional Review Act, CRA, and disapproval of the recent EPA power plant regulations. In 1996, Congress enacted the CRA as part of the Small Business Regulatory Enforcement Fairness Act. Since that time, CRA has been used successfully only once. In 2001, the Congress passed and President Bush signed a resolution of disapproval regarding an OSHA rule. So for 20 years it would seem that CRA votes are used more as a partisan club than an effective method of legislating.

For years, we have discussed the President's Climate Action Plan. A key component of the President's plan is the Clean Power Plan. The CPP is the administration's effort to curtail carbon emissions from new, modified, and existing electric-generating units.

Before the rule was finalized, I met with many, many groups. Some groups were completely against the idea of regulating power plants. The idea was derided as the most dangerous regulation in the history of the United States. Some groups were 100 percent in support of the regulation. These groups stated: Without the Clean Power Plan, our children and our planet were in grave danger.

Thankfully, some groups I met had other constructive ways of improving the regulations. These ideas, including the reliability assurance mechanism, the reliability safety valve, graduated compliance dates, and adjustment of the interim goals, were valid and

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well thought out. I have worked with my colleagues to ensure EPA was responsive to these reasonable ideas and they were incorporated into the final rules, which they were.

But all this back and forth has pointed to a larger problem. Since 2010, more than 100 rules have been promulgated by a Federal agency that are classified as major rules. The Office of Management and Budget defines major rules as any rule that has resulted in or is likely to result in an annual impact effect on the economy of \$100 million or more and major increase in cost or prices for consumers and industries and others or a significant adverse effect on competition and investment, et cetera. According to CRS, approximately 39 major rules would result in \$100 million annual compliance costs, regulatory benefits, or both.

The administration is filling the vacancy left by Congress. So what is the larger problem I mentioned earlier? The larger problem is our inability to find commonsense compromise on issues that have an enormous effect on our economy.

I support the EPA and the administration in their goals to combat climate change, but I think there is a much better way to accomplish these goals. I would rather Congress pass a bipartisan bill that regulates our commerce in a reasonable way.

We have an important role to play. Climate change is just one of the many challenges our country faces. We need to work together across party lines to address these challenges on behalf of our

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constituents. I know that the industries in the chairman's district and the industries in my district are vastly different than those in other parts of the country. We need to respect these differences and work toward helping these industries -- more importantly, those workers.

I think we all know that the President will not sign these resolutions. So rather than continue down this partisan path, let's work to solve these issues together. And I yield back my time.

Mr. Whitfield. The gentleman yields back.

Is there anyone on the Republican side that seeks recognition? The chair recognizes the gentleman from Texas, Mr. Barton, for 3 minutes.

Mr. Barton. I wasn't going to, but since everybody else has given their 3 minutes' worth, I thought I might as well too.

We know what is going to happen later on this afternoon when we have a vote. These two bills will pass, primarily on a party line vote. All the Republicans will be for and maybe one or two Democrats, but the majority of the Democrats will be against. We will pass it in the floor and it will go to the Senate and it will sit there.

But it is still a useful exercise because it shows the will, as expressed by the majority -- and the Republicans have 247 seats, with 1 seat vacant -- that the American people are not happy with President Obama's climate change policy.

Nobody on the Republican side denies that the climate is changing.

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We have an honest disagreement about the cause. The left would have you believe that it is all because of manmade CO2 emissions. I don't believe that to be true. Most of the benefits of this clean power rule are not in controlling CO2. It is in reducing particulate matter, which most of us know is dust. Okay? That is the facts.

What the clean power rule is about is trying to destroy coal as a source of electricity generation in the United States, which is something President Obama campaigned to do. When he couldn't pass cap-and-trade -- he barely passed it through the House by one or two votes. It failed in the Senate. So they are now trying to do by regulatory approach what they couldn't do by the legislative process. That is what this is all about.

At some point in time we do need to come together. And I think I have shown, Mr. Chairman, that I am more than willing to be bipartisan. I think Chairman Upton is more than willing to be bipartisan, and Chairman Whitfield and all the other subcommittee chairmen, when we can at least come to a common goal, which, unfortunately, on climate change it has been so politicized and polarized that it is at this point in time not possible. Maybe in future Congresses it will be possible.

But this exercise of the majority today is a necessary reaction to President Obama's exercise of using the EPA to do something through a regulatory process that could not be accomplished through the legislative process, and that is what the Congressional Review Act was designed to do. Mr. Green is exactly truthful when he says it has only

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been successfully used once in terms of actually passing a bill, but it is appropriate to use it on occasion to show the will of where the majority of the American people are, and I believe the majority of the American people are right where the Republicans are on this subcommittee.

We want a clean environment, but we also want jobs and economic prosperity. And you can say all you want about clean power and renewable power, they cost a lot more. And over time those cost curves will come down, Mr. Chairman, but to substitute solar energy and even wind power, which is probably the most economical alternative energy, or hydropower, which we have always had, it is simply not possible right now.

So I support these two bills. I do hope, if not in this Congress, in the next Congress, we can have a legitimate bipartisan compromise on some of this.

Thank you, Mr. Chair.

Mr. Whitfield. Thank you.

The chair now recognizes the gentlelady from California, Mrs. Capps, for 3 minutes.

Mrs. Capps. Thank you, Mr. Chairman.

I find this markup incredibly frustrating and disappointing because yet again the majority is wasting time trying to block the Clean Power Plan, a long overdue policy to reduce carbon pollution and address one of our society's biggest problems. And even worse, the resolutions

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under consideration irresponsibly block the carbon regulations without proposing any viable alternatives. These resolutions simply promote a desire to continue down an unsustainable path destined to leave our planet in worse shape for our children and leave the United States trailing far behind the rest of the world.

Climate change is one of the most critical issues we face, yet the majority willfully buries its head in the sand and dismisses it as hearsay. There is overwhelming scientific consensus.

Human-generated greenhouse gas emissions are driving global climate change, which will impact every aspect of life as we know it. We are already seeing economies strained, food security threatened. We are already seeing our oceans becoming more acidic, weather events more unpredictable and disastrous. We are already seeing the rates of public health threats like asthma, infectious diseases, and high temperatures increase.

We have a long and proud tradition of education in this country. Our Nation produces some of the best scientists, researchers, and innovators in the world. These experts have conducted countless experiments, analyzed data, come to the clear conclusion that our climate is changing, and emissions from the power sector are one of the main reasons why.

They have told us we should believe everything we hear. If it is one person telling us these things, we should be cautious. But when it is 99 percent of all scientists worldwide, it is not just academics

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who are telling us that climate change is real and that we need to take action.

In September we all heard from Pope Francis, who unequivocally stated that we have a moral obligation to address climate change and enact policies to curb carbon emissions. And we are also hearing from the private sector on the imperative to take action. Businesses understand that economic consequences of inaction are severe and we need to prepare for climate change.

So we have a scientific, moral, and economic justification for curbing carbon pollution by taking actions such as enacting the Clean Power Plan. And, yes, this is not acknowledged by the majority and instead we have dead-end efforts like the resolutions we are considering here today.

The EPA's carbon regulations are a concrete proposal to move forward to reduce pollution from new and existing power plants. The benefits are projected to outweigh the costs. And while only a first step, this plan helps to reassert the United States as a global leader and innovator. It is time to take our leadership role seriously by ramping up our response to climate change, not pass misguided resolutions. I strongly oppose these resolutions. I urge my colleagues to join me in voting no. And I yield back.

Mr. Whitfield. The gentlelady's time has expired.

At this time I recognize the gentleman from Vermont, Mr. Welch, for 3 minutes.

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Mr. Welch. No comments at this time.

Mr. Whitfield. All right. We have three votes on the House floor, so we are going to recess until 3 o'clock, and then we will come back and take these resolutions up. Recess till 3. Thank you.

[Recess.]

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RPTR MCCONNELL

EDTR CRYSTAL

[2:41 p.m.]

Mr. Whitfield. I would like to at this time call the markup back to order. Before we went to the floor for a vote, we had just about completed discussion of the markup of the two resolutions of disapproval under the Congressional Review Act. So at this time, I would ask, is there anyone else that would like to make an opening statement, a 3-minute opening statement?

Well, I think everyone had the opportunity before we recessed to go to the floor for a vote. So with that, at this time, the chair would call up H.J. Res. 71 and ask the clerk to report.

The Clerk. H.J. Res. 71, providing for congressional disapproval under chapter 8 of title 5, United States Code, of a rule submitted by the Environmental Protection Agency relating to "Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units."

Mr. Whitfield. So without objection, the first reading of H.J. Res. 71 is dispensed with and the joint resolution will be open for discussion.

So ordered.

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[The resolution follows:]

***** INSERT 2-1 *****

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Mr. Whitfield. So is there any discussion on this joint resolution in addition to what we have already had?

Seeing no one seeking recognition for discussion, the question would now occur on forwarding H.J. Resolution 71 to the full committee.

All those in favor, say aye.

All those opposed -- yes?

Mr. Rush. Recorded vote, please.

Mr. Whitfield. The gentleman has requested a roll call vote. The clerk will call the roll.

The Clerk. Mr. Olson?

Mr. Olson. Aye.

The Clerk. Mr. Olson votes aye.

Mr. Barton?

[No response.]

The Clerk. Mr. Shimkus?

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

Mr. Pitts?

[No response.]

The Clerk. Mr. Latta?

Mr. Latta. Aye.

The Clerk. Mr. Latta votes aye.

Mr. Harper?

[No response.]

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The Clerk. Mr. McKinley?

Mr. McKinley. Aye.

The Clerk. Mr. McKinley votes aye.

Mr. Pompeo?

Mr. Pompeo. Aye.

The Clerk. Mr. Pompeo votes aye.

Mr. Kinzinger?

[No response.]

The Clerk. Mr. Griffith?

Mr. Griffith. Aye.

The Clerk. Mr. Griffith votes aye.

Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Long?

Mr. Long. Aye.

The Clerk. Mr. Long votes aye.

Mrs. Ellmers?

[No response.]

The Clerk. Mr. Flores?

Mr. Flores. Aye.

The Clerk. Mr. Flores votes aye.

Mr. Mullin?

Mr. Mullin. Aye.

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The Clerk. Mr. Mullin votes aye.

Mr. Hudson?

Mr. Hudson. Aye.

The Clerk. Mr. Hudson votes aye.

Chairman Upton?

The Chairman. Aye.

The Clerk. Chairman Upton votes aye.

Mr. Rush?

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Mr. McNerney?

Mr. McNerney. No.

The Clerk. Mr. McNerney votes no.

Mr. Tonko?

Mr. Tonko. No.

The Clerk. Mr. Tonko votes no.

Mr. Engel?

Mr. Engel. No.

The Clerk. Mr. Engel votes no.

Mr. Green?

Mr. Green. No.

The Clerk. Mr. Green votes no.

Mrs. Capps?

Mrs. Capps. No.

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The Clerk. Mrs. Capps votes no.

Mr. Doyle?

Mr. Doyle. No.

The Clerk. Mr. Doyle votes no.

Ms. Castor?

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes?

[No response.]

The Clerk. Mr. Welch?

Mr. Welch. No.

The Clerk. Mr. Welch votes no.

Mr. Yarmuth?

[No response.]

The Clerk. Mr. Loeb sack?

Mr. Loeb sack. No.

The Clerk. Mr. Loeb sack votes no.

Mr. Pallone?

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Chairman Whitfield?

Mr. Whitfield. Yes.

The Clerk. Chairman Whitfield votes aye.

Mr. Whitfield. Has everyone had an opportunity to cast their

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vote?

Mr. Griffith. Mr. Chairman?

Mr. Whitfield. Yes?

Mr. Griffith. Could I inquire as to how I voted?

The Clerk. Mr. Griffith voted aye.

Mr. Griffith. I thank the gentleman. Thank you, Mr. Chair.

Mr. Whitfield. Has everyone had an opportunity to vote?

The clerk will report the vote.

The Clerk. Mr. Chairman, on that vote there were 13 ayes and 11 nays.

Mr. Whitfield. So the resolution is agreed to. And at this point, I would like to call up H.J. Res. 72 and ask the clerk to report.

The Clerk. H.J. Res. 72, providing for congressional disapproval under chapter 8 of title 5, United States Code, of a rule submitted by the Environmental Protection Agency Relating to "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units."

Mr. Whitfield. Without objection, the first reading of H.J. Res. 72 is dispensed with and the joint resolution will be open for discussion.

So ordered.

[The resolution follows:]

***** INSERT 2-2 *****

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Mr. Whitfield. Is there any discussion on the joint resolution? If not, the question now would occur on forwarding H.J. Res. 72 to the full committee.

All those in favor, say aye.

All those opposed, nay.

The ayes appear to have it.

Mr. Rush. Mr. Chairman, recorded vote, please.

Mr. Whitfield. The gentleman asks for a recorded vote. Would the clerk call the roll?

The Clerk. Mr. Olson.

Mr. Olson. Aye.

The Clerk. Mr. Olson votes aye.

Mr. Barton?

[No response.]

The Clerk. Mr. Shimkus?

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

Mr. Pitts?

[No response.]

The Clerk. Mr. Latta?

Mr. Latta. Aye.

The Clerk. Mr. Latta votes aye.

Mr. Harper?

[No response.]

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The Clerk. Mr. McKinley?

Mr. McKinley. Aye.

The Clerk. Mr. McKinley votes aye.

Mr. Pompeo?

Mr. Pompeo. Aye.

The Clerk. Mr. Pompeo votes aye.

Mr. Kinzinger?

[No response.]

The Clerk. Mr. Griffith?

Mr. Griffith. Pass.

The Clerk. Mr. Griffith abstains.

Mr. Griffith. No, pass. I pass.

The Clerk. Passes.

Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Long?

Mr. Long. Aye.

The Clerk. Mr. Long votes aye.

Mrs. Ellmers?

[No response.]

The Clerk. Mr. Flores?

Mr. Flores. Aye.

The Clerk. Mr. Flores votes aye.

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Mr. Mullin?

Mr. Mullin. Aye.

The Clerk. Mr. Mullin votes aye.

Mr. Hudson?

Mr. Hudson. Aye.

The Clerk. Mr. Hudson votes aye.

Chairman Upton?

The Chairman. Aye.

The Clerk. Chairman Upton votes aye.

Mr. Rush?

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Mr. McNerney?

Mr. McNerney. No.

The Clerk. Mr. McNerney votes no.

Mr. Tonko?

Mr. Tonko. No.

The Clerk. Mr. Tonko votes no.

Mr. Engel?

Mr. Engel. No.

The Clerk. Mr. Engel votes no.

Mr. Green?

Mr. Green. No.

The Clerk. Mr. Green votes no.

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Mrs. Capps?

Mrs. Capps. No.

The Clerk. Mrs. Capps votes no.

Mr. Doyle?

Mr. Doyle. No.

The Clerk. Mr. Doyle votes no.

Ms. Castor?

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes?

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes votes no.

Mr. Welch?

Mr. Welch. No.

The Clerk. Mr. Welch votes no.

Mr. Yarmuth?

[No response.]

The Clerk. Mr. Loeb sack?

Mr. Loeb sack. No.

The Clerk. Mr. Loeb sack votes no.

Mr. Pallone?

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Chairman Whitfield?

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Mr. Whitfield. Yes.

The Clerk. Chairman Whitfield votes aye.

Mr. Whitfield. We are going to keep this vote open for a minute.

Mr. Griffith. Mr. Chairman?

Mr. Whitfield. Yes?

Mr. Griffith. I would like to vote aye.

The Clerk. Mr. Griffith votes aye.

Mr. Whitfield. Mr. Griffith votes aye. And Mr. Barton is on his way, hopefully. Mr. Harper is on his way. Mr. Pitts is on his way.

Mr. Sarbanes. Mr. Chairman, over here.

Mr. Whitfield. Who seeks recognition? Yes.

Mr. Sarbanes. I wonder, I got the earlier direction that we were going to vote at 3 and I didn't get the more recent one. Could I be recorded "no" on the prior vote unless there is an objection?

Mr. Whitfield. Just 1 minute. And I will get to you.

Mr. Sarbanes. Sure.

Mr. Griffith. Mr. Chairman, I wouldn't have any objection to that as long as Mr. Pitts is allowed to vote also.

Mr. Whitfield. Absolutely.

Okay, is Mr. Barton recorded on this vote?

The Clerk. Mr. Barton is not recorded.

Mr. Whitfield. Mr. Barton, how do you vote?

Mr. Barton. How do you want me to be recorded?

Mr. Whitfield. Aye.

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Mr. Barton. I am on aye.

The Clerk. Mr. Barton votes aye.

Mr. Whitfield. Mr. Kinzinger.

Mr. Kinzinger. Aye.

The Clerk. Mr. Kinzinger votes aye.

Mr. Whitfield. Is Mr. Pitts coming? Okay.

Is there anyone else on your side of the aisle that would like to vote at this point?

Okay, the clerk will report the vote.

The Clerk. Mr. Chairman, on that vote there were 15 ayes and 12 nays.

Mr. Whitfield. Fifteen ayes and 12 nays. So the resolution is agreed to. And just 1 minute.

Mr. Whitfield. Okay, would you report the vote on this H.J. Res. 72 once again?

The Clerk. Mr. Chairman, on that vote there were 15 ayes and 12 nays.

Mr. Whitfield. Fifteen ayes and 12 nays. So the joint resolution is agreed to, H.J. Res. 72.

Now, because of Mr. Sarbanes' request and the fact that I did, when we recessed, say we would reconvene at 3, and we finished earlier than we thought, I would make a motion that we reopen the first vote and recast the first vote so that Mr. Sarbanes can be included.

So if the clerk, if there is no objection, if the clerk would

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recall the role on H.J. Res. 71.

The Clerk. Mr. Olson?

Mr. Olson. Aye.

The Clerk. Mr. Olson votes aye.

Mr. Barton?

Mr. Barton. Aye.

The Clerk. Mr. Barton votes aye.

Mr. Shimkus?

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

Mr. Pitts?

[No response.]

The Clerk. Mr. Latta?

Mr. Latta. Aye.

The Clerk. Mr. Latta votes aye.

Mr. Harper?

Mr. Harper. Aye.

The Clerk. Mr. Harper votes aye.

Mr. McKinley?

Mr. McKinley. Aye.

The Clerk. Mr. McKinley votes aye.

Mr. Pompeo?

[No response.]

The Clerk. Mr. Kinzinger?

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Mr. Kinzinger. Aye.

The Clerk. Mr. Kinzinger votes aye.

Mr. Griffith?

Mr. Griffith. Aye.

The Clerk. Mr. Griffith votes aye.

Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Long?

Mr. Long. Aye.

The Clerk. Mr. Long votes aye.

Mrs. Ellmers?

[No response.]

The Clerk. Mr. Flores?

Mr. Flores. Aye.

The Clerk. Mr. Flores votes aye.

Mr. Mullin?

Mr. Mullin. Aye.

The Clerk. Mr. Mullin votes aye.

Mr. Hudson?

Mr. Hudson. Aye.

The Clerk. Mr. Hudson votes aye.

Chairman Upton?

The Chairman. Aye.

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The Clerk. Chairman Upton votes aye.

Mr. Rush?

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Mr. McNerney?

Mr. McNerney. No.

The Clerk. Mr. McNerney votes no.

Mr. Tonko?

Mr. Tonko. No.

The Clerk. Mr. Tonko votes no.

Mr. Engel?

Mr. Engel. No.

The Clerk. Mr. Engel votes no.

Mr. Green?

Mr. Green. No.

The Clerk. Mr. Green votes no.

Mrs. Capps?

Mrs. Capps. No.

The Clerk. Mrs. Capps votes no.

Mr. Doyle?

Mr. Doyle. No.

The Clerk. Mr. Doyle votes no.

Ms. Castor?

Ms. Castor. No.

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The Clerk. Ms. Castor votes no.

Mr. Sarbanes?

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes votes no.

Mr. Welch?

Mr. Welch. No.

The Clerk. Mr. Welch votes no.

Mr. Yarmuth?

[No response.]

The Clerk. Mr. Loeb sack?

Mr. Loeb sack. No.

The Clerk. Mr. Loeb sack votes no.

Mr. Pallone?

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Chairman Whitfield?

Mr. Whitfield. Yes.

The Clerk. Chairman Whitfield votes aye.

Mr. Whitfield. Has everyone had an opportunity to vote on H.J.

Res. 71? Okay, the clerk will call the roll.

The Clerk. Mr. Chairman, on that vote there were 15 ayes and 12 nays.

Mr. Whitfield. Okay, 15 ayes, 12 nays. The resolution is agreed to. So, without objection, the staff is authorized to make technical

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and conforming changes to the legislation approved by the subcommittee today.

So ordered.

And without objection, the subcommittee stands adjourned.

[Whereupon, at 2:53 p.m., the committee was adjourned.]